

JUDGE SWAIN

11 CV

3499

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

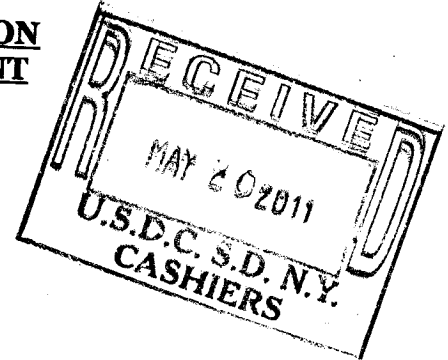
-----X
MOSHE LEVY, on behalf of himself
and all others similarly situated,

Plaintiff,

CLASS ACTION
COMPLAINT

v.

PHILLIPS & COHEN ASSOCIATES, LTD.
Defendant.
-----X



Plaintiff, by his attorney The Law Offices of Shimshon Wexler, P.C., as and for his complaint against the defendants, on behalf of a class pursuant to Rule 23 alleges as follows:

INTRODUCTION

1. Plaintiff brings this action to secure redress from unlawful credit and collection practices engaged in by defendant Phillips & Cohen Associates, LTD. ("Phillips"). Plaintiff alleges violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. ("FDCPA").

2. The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements, in connection with the collection of a debt and requires certain disclosures. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.

JURISDICTION AND VENUE

3. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA), 28 U.S.C. §1331, 28 U.S.C. §1337 and 28 U.S.C. §1367 and 28 U.S.C. §1391.

4. Venue and personal jurisdiction in this District are proper because:

- a. Defendant does business within this District;
- b. The acts giving rise to this lawsuit occurred within this district.

PARTIES

5. Plaintiff, Moshe Levy, is an individual who resides in Monsey, New York.

6. Defendant, Phillips, is a corporation chartered under New Jersey law with offices at 695 Rancocas Road in Westhampton, NJ 08060

7. Upon information and belief, Phillips is a corporation engaged in the business of collecting debts.

8. Upon information and belief, Phillips collects for others.

9. Upon information and belief, Phillips is a debt collector as that term is defined by 15 U.S.C. §1692a(6).

FACTS

10. On or about September 16th, 2010 plaintiff received a voice message from Phillips.

11. In leaving the voice message, Phillips was attempting to collect a debt.

12. In leaving the voice message, defendants sought to collect a financial obligation incurred for personal, family or household purposes.

13. The voice message stated "Moshe Levy, Ryan Steinberg, Phillips & Cohen- 866-504-9784, my direct extension is 1161- Thank you."

CLAIM FOR RELIEF

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

14. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

15. The voice message violates 15 U.S.C. §§1692 and 1692e.

16. Section 1692e entitled False or Misleading Representations provides:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:.....

(11) The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action.

17. By leaving the voice message, Phillips violated the above quoted provision of the statute because it failed to inform the consumer it was a debt collector.

18. Phillips is liable to the plaintiff for statutory

c. Congress intended class actions to be the principal enforcement mechanism under the FDCPA.

WHEREFORE, the Court should enter judgment in favor of plaintiff and the class and against the defendant for:

- (1) Statutory damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.

Dated: New York, New York
May 17, 2011

The Law Offices of Shimshon Wexler, PC

By: 

Shimshon Wexler (SW0770)

Attorney for Plaintiff

2710 Broadway, 2Fl

New York, New York 10025

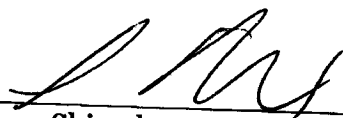
Tel: (212)760-2400

Fax: (917)512-6132

swexler@collectorabuselaw.com

NOTICE OF ASSIGNMENT

Please be advised that all rights relating to attorney's fees have been assigned to counsel.


Shimshon Wexler